



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION IX

75 Hawthorne Street  
San Francisco, CA 94105-3901

JUL 27 2015

Linda Sheehan, Executive Director  
Earth Law Center  
P.O. Box 3283  
Fremont, CA 94539

Dear Ms. Sheehan:

Thank you for your letter dated June 1, 2015 asking the Environmental Protection Agency (EPA) to list specific North Coast waterways as "flow-impaired" on California's 2012 303(d) list, or in the alternative for EPA to develop guidance for California to identify flow impairments, so that the other regions of California may appropriately list flow-impaired waterways as they work to complete their 2012 303(d) lists.


As you know, the Integrated Report allows the states to comply with multiple reporting requirements – especially CWA Sections 303(d) and 305 - in a single document. This integrated format does not, however, change any of the underlying authorities. EPA has interpreted Section 303(d) as applying to only those waters that are impaired by a pollutant and require a TMDL. This list corresponds to "Category 5" on the Integrated Report. Water quality impairments caused by low or high flows instead of by a "pollutant" would be included in the Integrated Report under Category 4c. Under the statute, EPA has review and approval authority (and can add additional listings) for only those segments qualifying for a Category 5 listing.

We agree that flow is an important issue across the US but especially in California and the rest of the arid west. EPA is considering changes to the 2016 integrated report guidance which encourages the States to place waters impaired by flow into Category 4c of the integrated report.

We note that all of the water bodies on the coalition's short list as candidates for flow impairments are already listed in Category 5 of California's 303(d) list for multiple pollutants. Had the State Board determined that these water bodies were also impaired by flow, the Category 4c notation would have appeared on the 303(d) list alongside the other impairments. EPA would acknowledge the flow impairment but would not act on it.

If the State Board decides to develop guidance for placing waters on Category 4c, we would be happy to work with the State Board and stakeholders in developing such guidance. Thank you for your commitment to a better environment. If you have any questions, please contact Terry Fleming of the Water Quality Assessment Section at (415) 972-3462.

Sincerely,

A handwritten signature in black ink, appearing to read 'Michael Montgomery', with a long horizontal flourish extending to the right.

Michael Montgomery  
Acting Director, Water Division

cc: Tom Howard, SWRCB  
Nick Martorano, SWRCB